



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Obrain Agwanihu :

ORDER

Tax Registry No. 961598 :

OF

Housing Bureau Police Service Area 4 :

DISMISSAL
-----X

Police Officer Obrain Agwanihu, Tax Registry No. 961598, having been served with written notice, has been tried on written Charges and Specifications numbered 2020-22809, as set forth on form P.D. 468-121, dated November 12, 2020 (amended on June 14 and November 16, 2021), and after a review of the entire record, Respondent is found Guilty of Specifications 1, 3 and 4, and Not Guilty of Specification 2.

Now, therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Obrain Agwanihu from the Police Service of the City of New York.


KEECHANT L. SEWELL
POLICE COMMISSIONER

EFFECTIVE: 6/3/22

COURTESY • PROFESSIONALISM • RESPECT

Website: <http://nyc.gov/nypd>



POLICE DEPARTMENT

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2020-22809
Police Officer Obrain Agwanihu	:	
Tax Registry No. 961598	:	
Police Service Area 4	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Ayisha Amjad, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Craig Hayes, Esq.
Worth, Longworth and London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Obrain Agwanihu, on or about October 21, 2020, while off-duty and in the confines of Lakeside Estates¹, New York, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: Said Police Officer wrongfully engaged in a physical altercation with an individual known to the Department.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

2. Said Police Officer Obrain Agwanihu, on or about October 21, 2020, while off-duty and in the confines of Lakeside Estates, New York, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: Said Police Officer wrongfully engaged in a physical altercation with an individual known to the Department while his minor child was present. (*As added*)

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

3. Said Police Officer Obrain Agwanihu, while assigned to the Housing Bureau Police Service Area 4, on or about February 26, 2021, wrongfully impeded a Department investigation by making false, inaccurate, or misleading statements regarding his actions on October 21, 2020. (*As added*)

A.G. 304-06

GENERAL REGULATIONS –
PROHIBITED CONDUCT

4. Said Police Officer Obrain Agwanihu, while assigned to the Housing Bureau Police Service Area 4, on or about February 26, 2021, during an official Department interview conducted pursuant to the provisions of Administrative Guide Section 304-10, wrongfully made false statements regarding his actions on October 21, 2021. (*As added*)

A.G. 304-10

FALSE OR MISLEADING
STATEMENTS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 8, 2022.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The

¹ The evidence at trial established the actual name of the municipality where the alleged misconduct occurred; a pseudonym is used in this memorandum to protect Respondent's privacy.

Department called Sergeant Gerppy Medina as its sole witness. Respondent called the complainant, Meredith², and testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of Specifications 1, 3, and 4; I find Respondent Not Guilty of Specification 2. Finally, I recommend that he be DISMISSED from the Department.

ANALYSIS

The following is a summary of the facts which are not in dispute.

On October 21, 2020, Respondent and his wife, Meredith, had a verbal altercation on the second floor of their residence³; Meredith's parents live on the first floor. The verbal dispute was over Respondent's suspicion that Meredith was engaged in an extramarital affair. The argument escalated and became physical, the extent to which is in dispute. Meredith sustained injuries to her face during the altercation, which caused her to go to a bathroom on the second floor; before entering the bathroom, she called out to her mother, who was on the first floor, to call the police (T. 97-98, 104-05).

Meredith's mother placed a call to 911, which was recorded (Dept. Ex. 1). When the operator answered the call, Meredith's mother asked for a police response to Respondent's residence to address "domestic abuse" (*Id.*). She identified Respondent as the aggressor and informed the operator that he was a police officer. The voices of Meredith's mother, Meredith, and Respondent are on the recording. Toward the end of the call, Meredith shouts, "Look at what you did to me, you fucking monster!" (*Id.*).

² While Respondent's wife testified before the Tribunal and identified herself with her actual name, because she is an alleged victim of domestic violence, she will be referred to by the pseudonym "Meredith."

³ The Tribunal is aware of Respondent's residence address, but it is omitted from this memorandum to protect his privacy.

While she was being treated in the hospital, Meredith signed a Domestic Incident Report (“DIR”), in which she alleged that Respondent struck her in the face and on the right side of her head (Dept. Ex. 2).

[REDACTED]

[REDACTED] On February 26, 2021, Respondent was interviewed pursuant to Patrol Guide procedures 206-13 and 203-08 (Dept. Exs. 4, 4A).

The following is a summary of the relevant trial evidence.

Meredith testified that she and Respondent were arguing for about an hour and a half. During that argument, they both raised their voices, and Meredith described herself as “dysregulated,” further explaining that she was “extremely emotional, [had] a hard time calming down, irrational, [and had] a really difficult time managing [her] own emotions” (T. 99-100). Their son was downstairs on the first floor of the residence during the entirety of this incident. Meredith testified that Respondent made multiple attempts to exit the bedroom and leave their apartment, but she blocked his egress by standing in the bedroom's doorway (T. 101-02, 108).

According to Meredith, as they continued to argue, the focus of the argument eventually turned to her cell phone. She testified that she was on her phone during the fight, trying to delete messages and information to hide it from Respondent. Meredith stated that Respondent asked her what was on her phone and attempted to take it away. She testified that Respondent grabbed the phone as she pulled it back; the phone then “flew” out of her hands and struck her in the face. Meredith conceded that she and Respondent were in physical contact while struggling over the phone (T. 103-04, 133).

Meredith then left the bedroom; as she walked toward a bathroom, she called downstairs to her mother to call the police because she was “hysterical” and “wanted [Respondent] to leave” (T. 105). She testified that she sustained injuries to the “lip right by [her] mouth” and a “smaller outer, external injury,” but the more serious injury was inside her mouth. Meredith explained further that she had blood in her mouth from the injury (*Id.*). She testified that she believed the phone caused the injury but denied that Respondent used the phone as a weapon to strike her intentionally. Meredith insisted that Respondent never struck her during the argument and never kicked or punched her (T. 105). She contended that her injuries were an “accidental result ... of an escalating argument where [she] tried to keep [her] phone and he was trying to get it from [her]” (T. 107).

On cross-examination, Meredith conceded that she said, “Look at what you did to me, you fucking monster,” as captured on the recording of the 911 call (Dept. Ex. 1). She denied that the statement indicated Respondent had done something to her intentionally; she repeated that she was furious, stressed, and overwhelmed and blamed him for everything. Meredith went downstairs to wait for the police to arrive while Respondent remained upstairs on the second floor (T. 107, 129-130). She testified that she was “very, very anxious” and “very, very overwhelmed,” given that nothing like this incident had ever happened between them before (T. 108). While Meredith conceded that she asked the police to remove Respondent from their home and gave a general statement about what happened, she claimed it was “very clear” that she did not want to press charges (T. 109). She denied that she was in fear for either her safety or her child’s safety, but just wanted Respondent to leave. Meredith claimed that she did not believe she was making a formal police report and thought she was just “telling them what happened, and what [she] understood” (T. 110).

Meredith testified that while she realized [REDACTED] when a Lakeside Estates police officer came to her home to retrieve Respondent's weapon, she did not think the matter would go any further. She recalled telling the police officers that she would not give a statement and was not pressing charges. When Meredith was confronted with the DIR, she claimed that while she did sign the form, she did not fill out the narrative portion and did not recall reading it (T. 112, 115-16; *see* Dept. Ex. 2).

When confronted with her assertion on the DIR that she was "hit in the center of the face," she testified that she did not recall whether she used that exact language and did not believe she would have said that; instead, she would have said, "my mouth" (T. 135). The Department Advocate further confronted Meredith with the specific language in the narrative portion of the DIR; she conceded that they were her words but spoken to the police while she was still at her home. She did not recall "dictating" them at the hospital (T. 136).

Meredith claimed that she did not want the Order of Protection that was issued on her behalf [REDACTED]. Investigators from this Department attempted to interview her on October 26, 2020, but Meredith declined to give a statement (T. 115-16, 147). Meredith stated that she had appeared before the Tribunal to "right a wrong," as her emotional state at the time "gravely impacted" how she handled the situation (T. 119). She admitted that she was aware that Respondent's job was at stake during this proceeding (T. 141).

Respondent testified that October 21, 2020, was a regular day off; Meredith, who did go to work that day, returned home later in the evening. He testified that he and Meredith engaged in a verbal dispute over her suspected infidelity after he viewed Meredith's text messages (T. 154). Respondent described his wife's demeanor as "crying a lot hysterically" and that she was

louder than he was during the argument (T. 155). He testified that he made several attempts to leave during the fight, but Meredith prevented him from doing so by blocking the exit to the bedroom; he volunteered that he did not physically move her out of the way because he is not “a physical, violent person” (T. 157). Respondent claimed that while he already had a bag packed, he waited for Meredith to return home to speak with her; their discussion, however, escalated into a physical struggle (T. 176-77).

Respondent admitted that he tried to grab the phone from Meredith when she announced that she was deleting her text messages (T. 158). Respondent and Meredith both had their hands on the phone, but he could not wrest it from her. According to Respondent, Meredith ran into the bathroom, ending the struggle over the phone, while Respondent waited in the bedroom. Respondent testified that he then heard Meredith calling down to her mother to call the police (T. 159).

Respondent testified that he could not be “precise” on whether the phone fell out of their hands during the struggle because “everything happened so quickly,” but he knew Meredith went into the bathroom with her phone (T. 160). When confronted with the photograph in Department Exhibit 3C, Respondent claimed that he could not explain the redness on Meredith’s face because he could not “100 percent say if [he’s] 100 percent sure that the phone hit her” (T. 183).

Respondent testified that Meredith cried and yelled during the argument, but he could not recall what she said because he was packing his bag to leave to “take [himself] out of the situation,” planning to go to his uncle’s home for a few days (T. 162, 164). He denied observing any blood, either where Meredith had been sitting or on the floor when she walked out of the bedroom. Respondent denied that he ever struck his wife during the argument. He asserted that he did not leave the bedroom until [REDACTED] Respondent testified that

when he spoke with the police officers, he told them Meredith “may have hit herself with the cell phone, that’s how she got hurt” (T. 187).

Respondent claimed he did not know what he was [REDACTED] when brought to the Lakeside Estates stationhouse. [REDACTED]

[REDACTED] Respondent testified that he and his wife have been living together again since the Order of Protection was lifted and described the current state of his marriage as “fantastic” (T. 175).

The Department interviewed Respondent on February 26, 2021. He testified that he answered truthfully when he stated that he did not strike his wife and did not know what caused her injuries. He said that he did not see any injuries Meredith sustained the day of the incident. Respondent admitted that during his Department interview, he told investigators that he asked Meredith on the day the Order of Protection expired how she received the injury to her upper lip and that Meredith told him she thought she bit the inside (T. 170-71, 184). Respondent stated that he had legal representation during his Department interview and that he was counseled to “answer the questions truthfully and don’t add ... [to] be specific” (T. 172).

Respondent testified that he felt that the questions asked by the investigators were accusatory and did not allow him to explain his side of the story, even though he chose not to provide his narrative of the events at the end of the interview when asked if he had anything he wanted to add (T. 172-73). When questioned as to why he answered “no” when he was asked if he knew how his wife injured herself, Respondent testified that he was being direct, as instructed, and wanted to be accurate so as not to “incriminate” himself (T. 193).

Sergeant Gerppy Medina, of the Housing Bureau Investigations Unit, testified that he was assigned to investigate this incident. He explained that Patrol Borough Queens North

Investigations conducted the initial investigation, which he reviewed and incorporated into his investigative file. Sergeant Medina interviewed the responding officer, Police Officer Joseph Depperman, on October 21, 2020. Depperman told Sergeant Medina that when he arrived at Respondent's residence, he met with Meredith on the second floor and observed that she had injuries to her lip. Meredith told Depperman that Respondent struck her (T. 28, 31, 32).

Based upon Depperman's observations and Meredith's statements, [REDACTED]; Respondent then commented that "she may have sustained the injury after she dropped the cell phone on her face⁴." (T. 33). Sergeant Medina testified that Depperman informed him of Respondent's statement when they spoke and that he made a notation of that statement in one of his investigative worksheets (T. 92-93).

A DIR was filled out by the officers, which listed Respondent's son as a witness to the incident. It also included a statement by Meredith, which she signed on the date of the incident (*See* Dept. Ex. 2). The responding officers took photographs of Meredith's injuries, depicting an injury to the inside of her lip, for which she received ten stitches, and redness to the side of her face (T. 42-43, 49; *see* Dept. Exs. 3A, 3B, 3C).

Respondent was interviewed by Sergeant Medina and Inspector Warchoska on February 21, 2021. Respondent, through his attorney, did initially waive a reading of Patrol Guide Section 206-13 and Patrol Guide Section 203-08 (Dept. Ex. 4A at 2-3). The Department drew specific attention to portions of the interview where Respondent was asked if he caused Meredith's injuries (T. 54-56). Sergeant Medina stated that at a point in the interview, he read patrol Guide Section 203-08 and Patrol Guide Section 203-16 into the record, and Respondent continued to

⁴ While Respondent is not charged with making a false or misleading statement to Lakeside Estates police officers, this statement was admitted due to its relevance to the tribunal's credibility assessment of his statements during his Department interview.

answer “no” and “I didn't do that” when asked whether he caused the injuries to Meredith, whether he observed the injuries Meredith sustained, and whether he and Meredith got into a physical altercation (T. 56-62; Dept. Ex. 4A at 16-19; *see also* Dept. Ex. 4A at 21-22, 25-27, 35).

Sergeant Medina testified that based on his investigation, he did not find these answers from the Respondent to be truthful and accurate statements. He agreed on cross-examination that he believed Respondent was making false statements during the interview based upon the reports he obtained and reviewed during his investigation. He further conceded that he never asked Respondent about an alternative way Meredith’s injury could have been caused by the phone accidentally hitting her, testifying that it “must have been an oversight from [his] point” (T. 85).

In this case, the credibility assessments of the witnesses will be dispositive. While Meredith, the victim of the alleged physical altercation, gave several statements to local police on the day of the incident, she stopped cooperating with them, then refused to cooperate with [REDACTED] [REDACTED] this Department’s investigators. The Department Advocate proffered that Meredith had been expected to testify for the Department on its case-in-chief, but, instead, she chose to testify for Respondent. During her in-court testimony, Meredith did not deny making her previous statements to the police. Still, she urged the Tribunal to discount them because she was supposedly so emotionally overwhelmed to render the statements unreliable.

Respondent testified, denying any blame for the physical altercation, and asserted that his statements to Department investigators were truthful.

In credibility assessments, the trier of fact should consider a wide range of factors, including but not limited to witness demeanor, corroborating evidence, the consistency of a witness account both at trial and over time, the degree to which the witness is interested in the

outcome of a case, the potential prejudice or bias of the witness, and perhaps most basically the degree to which the witness accounts are logical and comport with common sense and general human experience. These factors take on greater importance when the Department relies upon hearsay evidence to meet its burden of proof.

An overlay to this dynamic is the particular complexity of assessing allegations of assaults by an intimate partner. However, the finder of fact must always weigh the emotional complications of bringing such charges against Respondent's due process right to have all evidence suggesting that the incident did not occur fairly evaluated and considered. The most crucial factor for the Tribunal to consider is the individual motivations of the parties to provide truthful information. When placed in proper context, the behaviors of the parties before and after the incident in question may also reveal evidence relevant to a credibility assessment.

Based upon the totality of the circumstances, I find that both Meredith's and Respondent's trial testimonies, with respect to the source of Meredith's injuries, are unreliable and self-serving. As outlined in greater detail below, I find the hearsay statements Meredith made on October 21, 2020, reliable and a sufficient basis upon which to base findings of fact.

I had the opportunity to observe Meredith's demeanor as she testified before this Tribunal. It is my judgement that Meredith testified in the manner she did motivated by a desire to spare Respondent from the foreseeable consequences of his actions. While I make this assessment of her credibility, I do not judge either her or her marriage, as that is a matter beyond the purview of this Tribunal. As Respondent's spouse, Meredith has an interest in the outcome of this proceeding and a demonstrable bias.

I find that Respondent's statements to investigators on February 21, 2021, and his testimony before this Tribunal, while characterized by counsel for Respondent as procedurally

permissible denials of the charges, were instead false statements designed to avoid responsibility for the injuries which the credible, relevant evidence establishes overwhelmingly that he caused. I further find that the evidence establishes that at the time he made those untruthful statements, he was well aware of precisely how Meredith's injuries were inflicted because he inflicted them. That knowledge renders his denials that the altercation became physical patently false. Similarly, his attempts to offer an alternative explanation for Meredith's injuries connected to her mobile phone were deceitful and intended to misdirect the Tribunal away from the compelling evidence that he punched Meredith.

I further find portions of Respondent's testimony be illogical and internally inconsistent. For example, he claimed at trial that he had packed a bag to leave his home before Meredith had returned home from work, but later claimed that he did not remember what Meredith said during the argument because was busy packing. I also find that he attempted to bolster his own position by gratuitously claiming that he did not push Meredith out of the way to escape the bedroom because he was not a violent person. Finally, his characterization of the state of his marriage as "fantastic" seems exaggerated, even if their relationship has managed to survive the altercation.

Specification 1: Domestic Incident – Physical Altercation

I find that the Department has met its burden of proof by a preponderance of the credible, relevant evidence that, on October 21, 2020, Respondent wrongfully engaged in a physical altercation with Meredith. This finding is based upon Meredith's hearsay statements in the immediate aftermath of the incident and later that day at the hospital while being treated for her injuries.

The indisputable evidence in the record establishes that Meredith was injured during what began as a verbal altercation with Respondent. Almost immediately after sustaining her injuries,

she called her mother to summon the police to their residence. Although Meredith's mother made the call for police assistance, the 911 recording also captures Meredith's accusation, "Look at what you did to me, you fucking monster!" (Dept. Ex. 1). When local police officers responded, Meredith told them that Respondent punched her in the face and struck her on the right side of her head. The police officers observed injuries to Meredith's face consistent with her report.

I find that Meredith's rebuke on the 911 recording was an excited utterance, a firmly-rooted exception to the hearsay rule, which, by its nature, is deemed trustworthy. All of the surrounding circumstances support a finding that Meredith spoke spontaneously while under the influence of a startling event and did not have time for reflection or design. I reject Meredith's trial testimony that the Tribunal should discount her hearsay statements because she was very emotional in the aftermath of the incident. Ironically, her claim of being emotional supports the Tribunal's findings that her statements were excited utterances.

I further find that Meredith's statements to police at the scene were also reliable. While they were not made in as dramatic a fashion as her statement on the 911 call, they were still in close temporal proximity to the incident itself, making it likely that she was still speaking under the event's influence. Moreover, they were corroborated by her later statement in the Domestic Incident Report and the photographs of her injuries (Dept. Exs. 2, 3A, 3B, 3C). The pictures depict a laceration and blood on the top of her lip, a laceration on the inside of her lip, and redness on the right side of her face, all of which are consistent with the manner in which she initially told police her injuries were inflicted (*Id.*).

While Meredith and Respondent both testified at trial that Meredith's mobile phone caused the injuries, this theory is not supported by the evidence and is self-serving. Even if the

Tribunal were to find that the phone, rather than Respondent's fist, caused the injuries, Respondent was still wrongfully engaged in a physical altercation with his wife, which ultimately caused a physical injury. Finally, the extent of the injury to Meredith's lip, which required ten stitches to close, seems more consistent with a punch to her face than a mobile telephone accidentally hitting her in her mouth.

Based upon the foregoing, I find Respondent Guilty of Specification 1.

Specification 2: Domestic Incident in the Presence of a Minor

I find that the Department has failed to meet its burden of proof by a preponderance of the relevant, credible evidence that Respondent engaged in a physical altercation with Meredith while his child was present.

Although this Tribunal has found that Respondent indeed assaulted Meredith in their home on October 21, 2020, the record did not establish that their two-year-old child was present for the altercation. The DIR lists the minor child as a "witness," but it does not state where he was located in the house when the incident occurred or where he was found when the police officers arrived at the scene. Respondent and Meredith both testified that their son, who was two years old at the time of the incident, was downstairs in another part of the home during their argument. The Department presented no other evidence which would tend to show where the minor child was during this incident.

Based upon the foregoing, I find Respondent Not Guilty of Specification 2.

Specifications 3 & 4: Wrongfully Impeded an Official Investigation & False Statements

I find that the Department has met its burden of proof by a preponderance of the credible, relevant evidence that Respondent impeded a Department investigation by making false statements regarding his actions on October 21, 2020.

I also find that the Department has met its burden of proof by a preponderance of the credible, relevant evidence that Respondent made false statements during an official Department interview on the same date.

Sergeant Medina interviewed Respondent on February 26, 2021. During that interview, he was asked repeatedly about the incident that occurred on October 21, 2020, and Respondent frequently answered “no,” “I don't know,” and “I don't recall” to many of these questions.

A “distinction must be drawn between a procedural denial of a charge or allegation and denial of facts. ... [I]f the speaker, after being afforded the opportunity to recollect, intentionally denies specific facts that are proven by credible evidence to have occurred, he or she has made a false statement” (Disciplinary Guidelines, p. 32). The Department pointed out specific lines in the interview transcript to prove its case during the direct testimony of Sergeant Medina. At one point, they directed Sergeant Medina to the following question:

Q: Okay, alright, as at any moment did this – did the conversation with your wife, did it become physical, escalate and become physical?

A: No.

(T. 54; Dept. Ex. 4A, p. 8, lns. 20-22 and p. 9, ln.1).

I find that Respondent’s answer to this question was not a denial of guilt, but a false statement. The credible evidence that was presented to Respondent during this interview conclusively demonstrated that the conversation with his wife did at one point become physical. The Department investigators confronted Respondent with photos of Meredith’s injuries, the completed DIR, and the 911 call. Respondent was asked this question again later in the interview after investigators read Patrol Guide Section 203-08 and Patrol Guide Section 203-16 into the record:

Q: Alright, so you – you deny having any – any type of physical contact with [Meredith] on – on that day in question?

A: Yes.

(Dept. Ex. 4A, p. 36, lns. 19-21)

Again, Respondent denied a specific fact proven through the credible evidence that the Department presented. An investigation is considered impeded “when a member of service makes false, misleading, and/or inaccurate statements, or engages in impeding actions” (Disciplinary Guidelines, p. 33). Intentionally making statements that misdirect or misinform the investigator and/or interfere with or undermine the goals of the investigation is an example of conduct that impedes an investigation (*Id.*). Respondent can and did deny the allegations that he struck his wife in the face as described in the DIR, but to say the conversation did not become physical and that he did not have any type of physical contact are patently false statements in light of the evidence (*see Disciplinary Case No. 2020-22576* [Feb. 17, 2022]).

Under the Disciplinary Guidelines, Respondent impeded the investigation by making these false statements that misinformed the investigators about what happened between Respondent and his wife. Stating that he did not have any physical contact with his wife and that the argument did not escalate into a physical altercation is a false statement of a material fact in this matter. A reasonable person would recognize that the physical altercation and physical contact are significant facts in an investigation of a domestic violence incident and would affect the subject matter of the issue at hand, including any foreseeable consequences or establishment of the elements of some wrongful conduct.

I, therefore, find Respondent Guilty of Specifications 3 and 4.

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines ("Disciplinary Guidelines"), considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 13, 2016, has been found guilty of engaging in a physical altercation with his wife, making false statements at a Department interview, and impeding the Department's investigation into his misconduct. The Department Advocate has recommended termination; I concur with their recommendation.

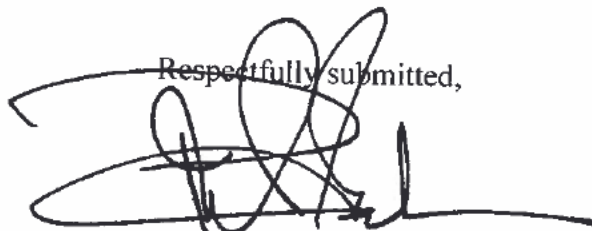
Under the Disciplinary Guidelines, the presumptive penalty for a false statement is termination. The presumptive penalty for a physical act of domestic violence is 30 suspension days, dismissal probation, and a 24-week counseling program; the aggravated penalty is termination.

Respondent has no prior disciplinary adjudications. Additionally, Respondent has no previous domestic violence history with his wife (*See* Dept. Ex. 2, p. 2). There is nothing in the record that would call for a mitigated penalty in this matter. Respondent has not accepted any responsibility, nor has he expressed any remorse for his actions on that day. Respondent doubled down in his testimony before the Tribunal on the narrative that he did not strike his wife and cannot be sure how she sustained her injuries that day. Notwithstanding [REDACTED], Respondent's lack of accountability during the duration of this investigation and the hearing is damnatory.

While Meredith's trial testimony, viewed in its most favorable light, suggests that the couple has decided to keep their family intact and persevere, her absolution of Respondent does not erase the findings of this Tribunal that a New York City police officer punched his wife in the face and lied about it to Department investigators. I further find that Respondent's blatant misconduct is likely to have an adverse impact upon the Department with regard to its mission, reputation, credibility, and relationship with the community, and the impact upon public trust.

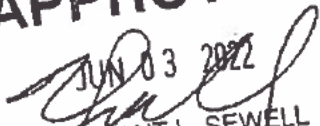
Taking into account the objectives of the Disciplinary Guidelines and the evidence in the record, I recommend that Respondent be DISMISSED from this Department.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to be 'Paul M. Gamble'.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

JUN 03 2022

KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER OBRAIN AGWANIHU
TAX REGISTRY NO. 961598
DISCIPLINARY CASE NO. 2020-22809

Respondent was appointed to the Department on July 13, 2016. On his most recent annual performance evaluations, he received overall ratings of “Exceeds Expectations” for 2019 and “Meets Expectations” for 2018. He has been awarded one medal for Excellent Police Duty.

Respondent has no disciplinary record. In connection with the instant matter, he was suspended from October 21, 2020, to November 19, 2020, and was placed on Level 2 Discipline Monitoring on December 23, 2021. Monitoring remains ongoing.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials